

Board Administration and Regulatory Coordination Unit

Division 3. Air Resources Board

Chapter 1. Air Resources Board

Subchapter 8.5 Consumer Products

Article 5. Hairspray Credit Program

§ 94568. Application Process for Use of Hairspray Emission Reduction Credits.

(a) Any HERC Account holder who wishes to use HERCs as specified in sections 94567(a), 94567(b), or 94567(c) must submit a written application to the Executive Officer. Any information in the custody of the California Air Resources Board that has been submitted as confidential by a responsible party (or a person acting on behalf of the responsible party) pursuant to this section shall be handled by the Air Resources Board in accordance with the procedures specified in sections 91000-91022 (Disclosure of Public Records), Title 17, California Code of Regulations, provided that such information is clearly identified as being confidential.

(b) *Application Requirements for HERC Use Pursuant to Section 94567(a).* An application to use HERCs for a delayed compliance period pursuant to section 94567(a) must be submitted in accordance with the following requirements:

(1) *Timing of Application Submittal.* An application must be submitted and approved by the Executive Officer before the start of the proposed delayed compliance period.

(2) *Application Contents.* The application must contain all of the following information:

(A) the responsible party's company name, street and mailing address, telephone number, and designated contact person for the application;

(B) information on the HERCs to be used, including HERC Account Holder, quantities, credit generation periods, and expiration dates;

(C) the amount of excess emissions the HERCs will be used to offset (i.e., "Projected Excess Emissions" calculated using the protocol specified in section 94569);

(D) the list of the consumer products (i.e., applicable consumer products) for which the responsible party is requesting additional time to comply with the VOC standard identified in paragraph (E) of this subsection;

(E) the VOC standard specified in sections 94502, 94509, 94522, Title 17, California Code of Regulations, for which the responsible party is requesting additional time to comply;

(F) the list of stock keeping units for each applicable consumer product, including any product identification numbers used by the responsible party to identify the stock keeping units;

(G) product labels for each stock keeping unit for each applicable consumer product;

(H) the responsible party's most recent speciated formulation data for each applicable consumer product (aggregated data may be submitted for the different stock keeping units) including percent by weight values to the nearest 0.1 percent for the following:

1. VOC content (for aggregated data, the applicant shall submit the highest VOC content or a sales-weighted average VOC content) and

2. each compound present in the formulation, except compounds that amount to a combined concentration of one percent by weight or less;

(I) documented sales for each applicable consumer product for the most recent twelve-month period (for which documented sales records are available) prior to the delayed compliance period, and supporting documentation that shows how sales were calculated using the documented sales records and a methodology which will be subject to Executive Officer approval pursuant to section 94568(b)(2)(K) and section 94570(a)(2);

(J) the list of contact persons, telephone numbers, and street and mailing addresses of all persons and businesses who have provided, or will provide, information for the determination of documented sales for all the applicable consumer products;

(K) a demonstration to the satisfaction of the Executive Officer of the validity of the methodology(ies) used, or to be used, to calculate documented sales pursuant to sections 94568(b)(2)(I), 94569, and 94571(b), based on the documented sales records provided by the responsible party or the contact persons listed in paragraph (J) of this subsection (b)(2);

(L) test results, using a method(s) specified in sections 94506, 94515 or 94526, Title 17, California Code of Regulations, as applicable, that verify the VOC content information for the applicable consumer product as specified in paragraph (H) of this subsection (b)(2); the units that were tested must have come from three different batches that were manufactured less than one calendar year before the beginning of the proposed delayed compliance period;

Board Administration and Regulatory Coordination Unit

Division 3. Air Resources Board

Chapter 1. Air Resources Board

Subchapter 8.5 Consumer Products

Article 5. Hairspray Credit Program

(M) the proposed delayed compliance period, in days, requested by the responsible party, including the dates on which the delayed compliance period would begin and end;

(N) for a proposed delayed compliance period greater than 365 days, a proposed schedule for annual submittal of information on “Documented Sales Delayed Compliance Period” and “Actual Excess Emissions” as defined in section 94569 and required pursuant to section 94571(b); and

(O) a signed declaration as specified in section 94568(e).

(c) *Application Requirements for HERC Use Pursuant to Sections 94567(b) or 94567(c).* For HERC use as specified in sections 94567(b) or 94567(c), an application must be submitted in accordance with the following requirements:

(1) *Timing of Application Submittal.* The application must be submitted to and approved by the Executive Officer prior to the use of HERCs as specified in sections 94567(b) or 94567(c).

(2) *Application Contents.* The application must contain all of the following information:

(A) the responsible party's company name, street and mailing address, telephone number, and designated contact person for the application;

(B) information on the HERCs to be used, including HERC Account Holder, quantities, credit generation periods, and expiration dates;

(C) the amount of excess emissions the HERCs will be used to offset; and

(D) a signed declaration as specified in section 94568(e).

(d) *Applicable Time Periods and Procedures for Review of HERC Use Applications.* The following time periods and procedures shall apply to the Executive Officer's review of a HERC use application:

(1) *Application Completeness Determination.* Within 30 days after receiving an application, the Executive Officer shall inform the applicant in writing that the application is complete, or that the application is deficient and shall identify the specific information required to make the application complete.

(2) *Application Completeness Determination After Receiving Additional Information.* Within 15 days after receiving additional information provided in response to a determination by the Executive Officer that an application is deficient, the Executive Officer shall inform the applicant in writing, either that the new information is sufficient to make the application complete, or that the application is deficient and shall identify the specific information required to make the application complete.

(3) *Approval Determination for Application.* Within 90 days after determining that the HERC use application is complete, the Executive Officer shall determine whether to approve the use of HERCs.

(4) *Extension of Time Periods.* For any of the time periods specified in this subsection (d), the Executive Officer and the applicant may agree to a longer time period for the Executive Officer to make a decision.

(e) *Declaration by Responsible Party.* The application, and any additional information submitted, must include a declaration, signed by a legal representative of the responsible party, that the submittal contains true, accurate, and complete information based on information and belief formed after reasonable inquiry. Any person submitting information directly (i.e., the information is not reviewed or submitted through the responsible party) to the Executive Officer on behalf of the responsible party must also make such a declaration.

(f) *Specified VOC Limit for a Consumer Product in the Hairspray Credit Program.* No applicable consumer product manufactured during a delayed compliance period shall exceed the VOC content for that product specified in the Executive Order approving the application to use HERCs.

NOTE: Authority cited: Sections 39600, 39601 and 41712, Health and Safety Code. Reference: Sections 39002, 39600, 40000 and 41712, Health and Safety Code.

REFERENCE